IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE THIRTIETH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

HONOURABLE SRI DEVINDER GUPTA, THE CHIEF JUSTICE

AND

THE HONOURABLE SRI JUSTICE C.V. RAMULU

WRIT PETITION NO : 15274 of 2004

Between:

N. Kishore Babu, S/o. N. Sivarama Krishnaiah,
R/o. D.No. 66 Ward No. 25, Siriguppa Road, Havambavi Bellary, Temporaraily R/o at Plot No. 47
B.N. Reddy Colony, Road No. 14, Banjarahills, Hyderabad.

..... PETITIONER

AND

1 The Executive Engineer (R & B) N.H. Division, No. 1, 1st Floor (R& B) Building Complex, A.C. Guards, Hyderabad.
2 The District Registrar, Medak District, at Sangareddy.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue writ or direction preferably writ of mandamus declaring the letter No. Supdt/NH.1/Hyd/Tolls/2004-2352 dt. 10-8-2004 issued by 1st respondent and also letter NO. MV/482/2004 dt. 10-8-2004 issued by 2nd respondent are illegal, arbitrary, and violative of principles of natural justice and also contrary to the directions of this Hon'ble court passed in W.P.No. 5193/2004 dt. 15-4-2004 and pass

Counsel for the Petitioner:MR.KOWTURU VINAYA KUMAR

Counsel for the Respondent No.1: GP FOR ROADS & BUILDINGS

Cousnel for the Respondent No.2: G.P. for Cooperation

The Court made the following Oral Order: (per Sri Devinder Gupta, CJ)

We have heard the counsel for the parties.

The writ petitioner had earlier filed W.P. No. 5193 of 2004 questioning the action of the respondents in demanding 5% Stamp Duty for the purpose of execution of lease deed in respect of sale of leasehold rights for collection of toll fee on Minor Bridge at KM.502/4 of Pune-Hyderabad Road NH-9 near Rudraram Village of Medak District in A.P. for the year 2004-2005 and 2005-2006, as illegal and arbitrary. Petitioner's case was that he is liable to pay stamp duty only of 3% of annual rental value and not at 5% as demanded by the respondents.

Counter affidavit was also filed by the respondents asserting that stamp duty is payable by the petitioner at 5% of the total bid value. The writ petition was disposed of by learned single judge that the issue whether the petitioner is liable to pay stamp duty at 5% as claimed by the respondents or at 3% as contended by the petitioner is an issue which has to be adjudicated upon by the authorities under the Indian Stamp Act and petitioner had already executed the lease deed by paying 3% of stamp duty and presented the same before the Chief Engineer,(R&B), National High Ways, Hyderabad. Accordingly, the learned single judge directed the authorities to forward the said document before the appropriate registering authority with a further direction that on presentation before the appropriate registering authority, the registering authority would adjudicate upon as to what is the proper

stamp duty payable and on such determination, the petitioner will be liable to pay the said additional duty, if any.

After the said writ petition was decided on 15.4.2004, petitioner was served with a notice by the Executive Engineer (R&B) on 16.8.2004 pointing out that District Registrar, Medak, Sangareddy had informed that additional stamp duty was payable by the petitioner. The grievance of the petitioner is that the adjudication has taken place without affording any opportunity to the petitioner herein.

We have heard the learned counsel for the parties.

Learned counsel for the respondents in support of the impugned order submits that since there was no direction that petitioner also has to be heard at the time of adjudication, therefore, petitioner was not heard. This stand taken on behalf of the respondent is contrary to the settled principles of law. When there has to be adjudication by an authority, principles of natural justice are in built and have to be complied with. Any adjudication without complying such principles of natural justice would be null and void. Stamp duty has to be paid by the petitioner and therefore, he is a necessary party.

Petitioner is one of the executants of the document. Therefore the adjudicating authority is bound to hear the petitioner. In the absence of which the order impugned passed on 10.8.2004 by the District Registrar, Medak, Sangareddy demanding payment of additional stamp duty is liable to be set aside and the same is accordingly set aside being null and void with a direction to the District Registrar, Medak, Sanga Reddy to hear the petitioner and take appropriate decision in accordance with law as to the appropriate stamp duty payable on the instrument by which petitioner has been permitted to realize the toll. Needless to add that any order passed by the Registrar, will have to be complied with by the petitioner and in case, petitioner or the respondent No.1 would feel aggrieved, they can have recourse to law as provided under the Act.

The writ petition is accordingly allowed. No costs.

_____

DEVINDER GUPTA, CJ

Date: 30th August, 2004

_____

C.V.RAMULU,J

pnb

To

1 The Executive Engineer (R & B) N.H. Division, No. 1, 1st Floor (R& B) Building Complex, A.C. Guards, Hyderabad.
2 The District Registrar, Medak District, at Sangareddy.

3 Two C.Cs. to G.P. for R&B, High Court Buildings, Hyderabad.

4 Two C.D. copies